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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,004	01/16/2004	Helmut Holzer	HOLZER - 5	8659

7590 06/28/2005

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Roslyn, NY 11576

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/760,004

Applicant(s)

HOLZER, HELMUT

Examiner

Hau V Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/9/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Acknowledgment*

1. The amendment filed on 6/15/2005 has been entered.

### *Claim Objections*

2. Claim 35 is objected to because of the following informalities: The term "evauaiton" need to changed to -- evaluation --. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 24, 26, 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 24, 26, 27 the trademark/trade name Hall effect sensor. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and

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not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a sensor and, accordingly, the identification/description is indefinite.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 17-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohrmoser (5,498,017) in view of Smolka et al. (3,819,199).**

Rohrmoser in figures 9-21, discloses a safety ski binding with a toe binding (7) and a heel binding (8) and an electronic circuit incorporating an electronic display device (as shown in figure 2). Rohrmoser also discloses a sensor system for displaying at least one set safety release value of the safety ski binding, characterized in that an electronic evaluation device is provided in both the toe binding and in the heel binding. The toe and heel bindings have at least one sensor for detecting at least the respective set safety release value and each of the evaluation devices respectively has a power supply system and transmitter and/or receiver device for operating a wireless, one-way or two-way

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data or signal transmission, only a single display device being provided on the toe binding or on the heel binding, in particular a display with graphic capability, for displaying the respective values or states of the toe binding or heel binding.

Rohrmoser fails to show a separate power supply system.

Smolka et al. in figure 3, teaches an electric ski binding having a separate power supply system for a toe binding and a heel binding. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the safety ski binding of Rohrmoser with the electric ski binding having a separate power supply as taught by Smolka et al. in order to eliminate all the part connecting the power supply between the toe and heel bindings.

Regarding claim 18, Rohrmoser discloses the single electronic display device, which is capable of generating a graphic display.

Regarding claim 19, Rohrmoser discloses a slip-on spring system (64) in the heel binding, and wherein the electronic evaluation device in the heel binding is connected to a sensor for determining or checking a clamping pressure of the spring system relative to a ski shoe held by the heel binding.

Regarding claim 20, Rohrmoser discloses the sensor for determining or checking the clamping pressure is a magnetic field sensor.

Regarding claim 21, Rohrmoser discloses the magnetic field sensor, which is a Giant Magneto Resistive sensor.

Regarding claim 22, Rohrmoser discloses a heel binding housing enclosing a slip-on spring system, the magnetic field sensor being immovably joined to the housing, and a permanent magnet or metal part disposed on a part

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of the slip-on spring system that is displaceable relative to the magnetic field sensor.

Regarding claim 23, Rohrmoser discloses the electronic evaluation device in the heel binding, which is connected to a sensor for detecting the open and closed state of the heel binding.

Regarding claim 24, Rohrmoser discloses the sensor for detecting the open and closed state of the heel binding is comprised of a first sensor for signaling the open state and a second sensor for signaling the closed state.

Regarding claim 25, Rohrmoser discloses the electronic evaluation device in the heel binding, which is connected to a sensor for detecting the open or closed state of the heel binding.

Regarding claim 26, Rohrmoser discloses the sensor for detecting the set safety release value, which is comprised of two sensors, and a multi-pole ring magnet rotatably joined to an adjusting screw for adjusting the release values of a release mechanism is disposed in the detection range of the sensors.

Regarding claim 27, Rohrmoser discloses the sensors, which are spaced apart at a distance from each other in the circumferential direction of the ring magnet. The sensors generate a digital sensor signal upon turning of the adjusting screw, and the electronic evaluation device comprises a counter for counting or recording the pulses or periods of the sensor signal.

Regarding claim 28, Rohrmoser discloses a numerical value representing the counted or recorded pulses or periods stored in a non-volatile memory

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system is increased or decreased by turning the adjusting screw, depending on the direction in which the adjusting screw is turned.

Regarding claim 29, Rohrmoser discloses the electronic evaluation device, which is designed to activate or deactivate the power supply of at least one sensor.

Regarding claim 30, Rohrmoser discloses a motion sensor connected to each electronic evaluation device.

Regarding claim 31, Rohrmoser discloses a motion sensor, which is connected to the electronic evaluation device in the toe binding or to the electronic evaluation device in the heel binding.

Regarding claim 32, Rohrmoser discloses the electronic evaluation device, which is designed to be switched off or switched to a power-saving mode the signal status of the motion sensor remains constant for a specific period of time.

Regarding claim 33, Rohrmoser discloses the electronic evaluation device, which is designed primarily to evaluate the signal status of the motion sensor in the power-saving mode, and other functions of the evaluation device are deactivated or minimized.

Regarding claim 34, Rohrmoser discloses the electronic display device, which is designed to be switched off, depending on signals of the motion sensor and on a period of time elapsing without any movement being detected by the evaluation device or the motion sensor.

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Regarding claim 35, Rohrmoser discloses the electronic evaluation device in the toe binding is designed to switch off the electronic display device or to switch it to a power-saving mode if the heel binding changes from a closed to an open state.

Regarding claim 36, Rohrmoser discloses the transmitter and receiver device, which is comprised of a peripheral electronic computer unit.

Regarding claim 37, Rohrmoser discloses the computer unit, which is comprised of a wrist-top computer, a hand-held computer, or a mobile telephone.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 17-37 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory



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action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hau V Phan*  
6/28/05

Hau V Phan  
Primary Examiner  
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